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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,741	12/04/2003	Jordi Basaganas Millan	HERR 20.779 (100700-00112)	2696
26304	7590	07/19/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			HOPKINS, ROBERT A	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/730,741	Applicant(s) MILLAN, JORDI BASAGANAS	
	Examiner Robert A Hopkins	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-7-04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kvietok et al(2004/0033171) taken together with Pedrotti et al(2003/0194355).

Kvietok et al teaches an evaporator device for active substances, of the type comprised of a body(22) determining a support base inside which are established the corresponding means(40,42) to heat a wick(38) emerging from the mouth of a bottle(28,30) containing fragrant liquid, thereby heating and thus causing the evaporation of a liquid, all of this with the device connected by a plug(26) on a base, characterized in that it includes a printed circuit(50; paragraph 0047) with corresponding electronics for optimizing the diffusion of the fragrance(paragraph 0048 lines 9-12) and thereby prevent the phenomenon of olfactory saturation, by means of a program of on/off cycles or pulses pre-established by the manufacturer and which cannot be perceived nor manipulated by the user, such that on the printed circuit with the electronic components is mounted a support for the corresponding heating elements that are vertically arranged and directly connected to metallic contacts integrated with them in the assembly itself. Kvietok et al is silent as to the corresponding base housing

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these components being complimented with a closure wall and an exchangeable embellishment case. Pedrotti et al discloses an evaporator device having a support base(220), a closure wall(180), and an exchangeable embellishment case(150). It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a closure wall and an exchangeable embellishment case for the housing of Kvietok et al in order to provide for design wherein the internal components of the evaporator device are easily accessed for observation or replacement.

Kvietok et al further teaches a manually actuated element meant to increase or decrease the intensity of evaporation of the fragrant liquid(paragraph 0051).

Examiner notes that the patent application publication includes an international application(PCT/US00/20499) for which benefit is properly sought via 35 USC 120, wherein the IA was filed before November 29, 2000, therefore the 102(e) date is the filing date of the U.S. application that claimed benefit to the IA, which is 09/904,019 having a filing date of July 12, 2001.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitby et al(2002/0159916) taken together with Pedrotti et al(2003/0194355).

Whitby et al teaches an evaporator device for active substances, of the type comprised of a body(1) determining a support base inside which are established the corresponding means(3a,3b) to heat a wick(8a,8b) emerging from the mouth of a bottle(2a,2b) containing fragrant liquid, thereby heating and thus causing the evaporation of a liquid, all of this with the device connected by a plug(9a,9b,9c) on a base, characterized in that it includes a printed circuit(5) with corresponding electronics

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for optimizing the diffusion of the fragrance(paragraph 0021 lines 3-14) and thereby prevent the phenomenon of olfactory saturation, by means of a program of on/off cycles or pulses pre-established by the manufacturer and which cannot be perceived nor manipulated by the user, such that on the printed circuit with the electronic components is mounted a support for the corresponding heating elements that are vertically arranged and directly connected to metallic contacts integrated with them in the assembly itself. Whitby et al is silent as to the corresponding base housing these components being complimented with a closure wall and an exchangeable embellishment case. Pedrotti et al discloses an evaporator device having a support base(220), a closure wall(180), and an exchangeable embellishment case(150). It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a closure wall and an exchangeable embellishment case for the housing of Whitby et al in order to provide for design wherein the internal components of the evaporator device are easily accessed for observation or replacement.

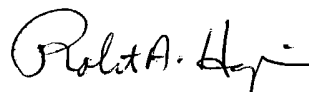
Whitby et al further teaches a manually actuated element meant to increase or decrease the intensity of evaporation of the fragrant liquid(paragraph 0051).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert A Hopkins
Primary Examiner
Art Unit 1724

Rah
July 15, 2004